

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RODNEY CLARENCE KENNARD,

Petitioner,

v.

Case No. 16-cv-12523
Hon. Matthew F. Leitman

TONY TRIERWEILER,

Respondent.

/

ORDER GRANTING PETITIONER'S MOTION TO RE-OPEN THIS CASE
[24] AND DIRECTING THE STATE TO FILE AN ANSWER TO THE
AMENDED PETITION

Petitioner Rodney Clarence Kennard is a state prisoner in the custody of the Michigan Department of Corrections. On July 5, 2016, Kennard filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. (*See* ECF #1.) He challenged his state-court conviction for first-degree, premeditated murder, Mich. Comp. Laws § 750.316(1)(a). The State filed a responsive pleading in which it argued that Kennard did not exhaust state remedies for the second half of his second claim and his eleventh claim. (*See* ECF #7, PageID.127-128, 132.) Kennard then asked the Court to stay consideration of his petition while he returned to state court and pursued post-conviction remedies with respect to his second and eleventh claims. (*See* ECF #20).

On June 4, 2018, the Court granted Kennard's request for a stay and conditioned the stay on Kennard presenting his unexhausted claims to the state trial court in a motion for relief from judgment no later than August 31, 2018. The Court further conditioned the stay on Kennard returning to federal court with a motion to re-open and amend his petition within sixty days of fully exhausting his state-court remedies. (*See* ECF #21.) The Court closed this case for administrative purposes. *Id.*

Now before the Court are Kennard's motion to re-open this case and his amended petition for the writ of habeas corpus. (*See* ECF #24 and #25.) Exhibits to the amended petition indicate that Kennard raised claims about his trial and appellate attorneys and the great weight of the evidence in a motion for relief from judgment. The state trial court denied the motion on March 13, 2019. (*See* ECF #25, PageID.3815-3817.) The Michigan Court of Appeals denied leave to appeal on September 11, 2019 (*see id.*, PageID. 3818), and the Michigan Supreme Court denied Kennard's application for leave to appeal on March 27, 2020 (*see id.*, PageID. 3819).

Kennard filed his amended petition and motion to re-open this case on April 29, 2020. He appears to have exhausted state remedies for his previously unexhausted claims. He also appears to have complied, for the most part, with the

conditions set forth in the Court's order granting a stay. Accordingly, the motion to re-open this case, ECF No. 24, is granted.

The Court orders the Clerk of Court to re-open this case on the Court's active docket. The Court orders the State to file an answer to the amended petition and any supplemental state-court records within sixty (60) days of the date of this order. Kennard shall have forty-five (45) days from the date of the State's supplemental response to file a reply.

IT IS SO ORDERED.

/s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: July 6, 2020

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on July 6, 2020, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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